

STATE OF CALIFORNIA



MEMO

To : PUBLIC MAILING LIST

From : NEW MOTOR VEHICLE BOARD
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Date : July 3, 2002

Subject: REQUEST FOR EXTENSION OF TIME (REVISED)

The following nonsubstantive amendments to Title 13 of the California Code of Regulations have been approved by the Office of Administrative Law and filed with the Secretary of State:

§ 565. Request for Extension of Time; Temporary Ownership or Operation of a Dealership by a Manufacturer, Branch, or Distributor.

(a) After a showing of good cause by a manufacturer, branch, or distributor that it needs additional time to own and operate a dealership within the relevant market area of an independent dealer of the same line-make in preparation for sale to a successor independent franchisee, the board may extend the time period beyond one year.

(b) When a manufacturer, branch, or distributor seeks to request an extension of time, it shall first give notice in writing of that intention to the board and to each franchisee operating a dealership of the same line-make within the relevant market area.

(c) The written notice shall contain, on the first page thereof in at least 12-point bold type and circumscribed by a line to segregate it from the rest of the text, the following statement:

<p>NOTICE TO DEALER: If you oppose this request, you may send a letter to the NEW MOTOR VEHICLE BOARD in Sacramento and have your opposition considered by the board. You must file your opposition with the board within 20 days of your receipt of this notice.</p>
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(d) When a request for extension of time has been received, the board shall notify each franchisee of the same line-make within the relevant market area, as provided by the manufacturer pursuant to subsection (g)(1) below, that a timely request has

been received, that the franchisee has the opportunity to send a letter to the board opposing the request and have that opposition considered by the board at its next scheduled meeting, and that the status quo will be maintained until the board acts upon the request for extension.

(e) In determining whether good cause has been shown for granting the request for an extension of time, the board shall take into consideration the existing circumstances, including, but not limited to, all of the following:

- (1) The written request of the manufacturer, branch, or distributor;
- (2) Written responses in opposition to the request received from any franchisee operating a dealership of the same line-make within the relevant market area; and,
- (3) Comments of other interested parties.

(f) Upon the filing of a timely request for an extension of time, a copy of the request for extension shall be transmitted by the secretary of the board to each member of the board for consideration.

(g) The written request for an extension of time shall be accompanied by all of the following:

- (1) A list of all franchisees operating a dealership of the same line-make within the relevant market area.
- (2) A statement of facts detailing the specific need for the extension of time.
- (3) The requested expiration date of the extension.
- (4) A chronology of the actions both taken and planned by the manufacturer, branch, or distributor to prepare for the sale of the franchise to a successor independent franchisee.
- (5) A statement to the effect that the information required in subsections (g)(2)-(4) above has been provided to each franchisee operating a dealership of the same line-make within the relevant market area.

(6) A statement that the requesting party does or does not agree that the dealer members of the board may participate in the consideration of the request.

(h) The secretary shall grant the extension unless, within 30 days from receipt of the request for extension, any member of the board notifies the secretary of an objection or the board receives a written response in opposition to the request from any franchisee operating a dealership of the same line-make in the relevant market area.

(i) If any member of the board gives notice of objection within 30 days of receipt of a copy of the request for extension, or if the board receives a timely written opposition to the request from any franchisee operating a dealership of the same line-make within the relevant market area, this matter shall be considered by the board at its next scheduled meeting.

(j) Upon receipt by the secretary of a notice of objection and/or a written opposition from any franchisee operating a dealership of the same line-make within the relevant market area, the secretary shall notify the manufacturer, branch, or distributor that there has been an objection and/or opposition, that the matter will be considered by the board at its next scheduled meeting, and that the status quo will be maintained until the board acts upon the request for extension. The manufacturer, branch, or distributor, and opposing franchisee(s), if any, operating a dealership of the same line-make within the relevant market area shall be given a minimum of 10 days= prior notice of the time, date, and location of the board

meeting at which the request for extension will be considered.

(k) Notwithstanding subsections (h), (i) and (j) above, a member of the board who is a new motor vehicle dealer may not participate in, hear, comment, advise other members upon, or decide any matter involving a request subject to this subsection, unless the requesting party to the proceeding has had full disclosure and agrees to such participation by the dealer board member.

(l) On or before 60 days prior to the expiration of the one year period, the manufacturer, branch, or distributor may request an extension of time for good cause shown which shall be in writing. Requests received with less than 60 days= prior notice will not be considered by the board and shall be deemed denied.

(m) Within 20 days of receiving the notice, any franchisee required to be given notice may file an opposition to the request for an extension of time.

Note: Authority cited: Section 3050(a), Vehicle Code. Reference: Sections 3050, 11713.3, Vehicle Code.

(Effective July 3, 2002)

If you have any questions or comments, please do not hesitate to contact Cara O'Neill-Stewart, Staff Counsel, at (916) 445-2080.